

that this is the necessary consequence of plaintiff's knowledge of GMC's existence and of its connection with the accident when the suit was filed, and therefore that Alabama's rule precluding "relation back" works in conjunction with Alabama's requirement that suit be filed before the death so as to prevent the after-death naming of GMC for the first time.

The court readily understands why GMC points to the fact that this court treated the amendment which added GMC as a defendant in the state court as a new case for the purpose of allowing GMC to effect a diversity removal more than one year after the complaint was filed in the state court. However, the treatment accorded an amendment for **one** purpose does not necessarily dictate the treatment of that amendment for **all purposes**. Sitting in diversity, this court necessarily applies Alabama substantive law. Even though there is no binding Alabama decision directly on point, this court concludes that inasmuch as the original complaint had clearly sought damages for personal injury and because the amendment adding GMC was filed before the bar of the Alabama statute of limitations for personal injury, no Alabama rule is violated by the naming of GMC after the death. Plaintiff's claim for the personal injuries of the decedent is therefore preserved as against GMC.

Accordingly, GMC's motion for partial summary judgment will be denied by separate order.

DONE this 14th day of August, 2000.

A handwritten signature in cursive script, appearing to read "William M. Acker, Jr.", written in dark ink.

WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE